

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on June 8, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic procedures, neuromuscular re-education, chiropractic manipulation, ultrasound, massage, electrical stimulation-unattended and manual therapy, **were found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services

This Findings and Decision is hereby issued this 8<sup>th</sup> day of September 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 08-07-03 through 09-02-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8<sup>th</sup> day of September 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

PR/pr

August 18, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3422-01  
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

The patient was working on her job when she slipped in the restroom on oil and then fell at least one other time while attempting to get off the floor. She initially was treated at Concetra, but later switched to her choice of doctor, Dr. Y. She was diagnosed with a Post-Concussion Syndrome, Traumatic Headache, Cervical Segmental Dysfunction and myospasms along with a possible lower extremity radiculopathy. She was referred to Dr. N,

who saw her on June 4, 2003 and prescribed Vioxx, Elavil and Esgic Plus. A designated doctor on the case, Dr. B, examined her on July 11, 2003 and found her not to be at MMI. He recommended electrodiagnostic studies, conservative care and psychological intervention. A pain management consultation by Dr. P indicated that the patient was to be considered for a EMG, although no results for such a test were found in the report. Dr. H was the RME doctor on this case as requested by the carrier and he agreed with the diagnosis as well as the treatment rendered by Dr. Y. A peer review by Dr. M, DACNB indicated that the patient no longer needed due to a lack of magnitude to the injuries. He recommended care end after August 1, 2003.

#### RECORDS REVIEWED

Initial report from Dr. Y, narrative of Dr. N, Report of Dr. B, report of Dr. P, office notes of Dr. Y, RME of Dr. H, peer review of Dr. M, EOB's for the dates in question and correspondence to the carrier from the treating clinic.

#### DISPUTED SERVICES

The carrier has denied the medical necessity of therapeutic procedures, neuromuscular re-education, chiropractic manipulation, ultrasound, massage, electrical stimulation-unattended and manual therapy from August 7, 2003 through September 2, 2003.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

While the reviewer generally feels that passive therapy is of minimal value on an extended basis, one must consider that the patient was responding well to a combination of passive/active therapy and that she was making progress in her treatment protocol. The most impressive part of this file is that all of the doctors who examined her generally agreed that the patient was making acceptable progress with these injuries and that the treatment protocol was appropriate. The only dissenting voice was that of the carrier's peer reviewer, who considered the injuries to be minor in nature. The designated doctor and the RME doctor both considered this to be a much more serious injury than the reviewer for the carrier, as did the consulting doctors on the case. The utilization on this case was reasonable for the type of injuries that this patient suffered and the reviewer finds the disputed services were necessary in this case.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,